

Texas Board of Veterinary Medical Examiners

Self-Evaluation Report



September 2019

Table of Contents

I.	Agency Contact Information	2
II.	Key Functions and Performance.....	2
III.	History and Major Events	10
IV.	Policymaking Structure	15
V.	Funding	19
VI.	Organization.....	23
VII.	Guide to Agency Programs	24
VIII.	Statutory Authority and Recent Legislation.....	49
IX.	Major Issues	55
X.	Other Contacts	56
XI.	Additional Information.....	59
XII.	Agency Comments	62

Texas Board of Veterinary Medical Examiners Self-Evaluation Report

For the 2020 Limited Review following the 2017 Review

I. Agency Contact Information

A. Please fill in the following chart.

Texas State Board of Veterinary Medical Examiners Exhibit 1: Agency Contacts

	Name	Address	Telephone & Fax Numbers	Email Address
Agency Head	John M. Helenberg	333 Guadalupe Ste. 3-810 Austin, TX 78701	512-305-7561	John.Helenberg@veterinary.texas.gov
Agency's Sunset Liaison	Candice Simon	333 Guadalupe Ste. 3-810 Austin, TX 78701	512-305-7563	Candice.Simon@veterinary.texas.gov

Table 1 Exhibit 1 Agency Contacts

II. Key Functions and Performance

Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of your agency's mission, objectives, and key functions.

Mission

The mission of the Texas Board of Veterinary Medical Examiners is to establish and enforce policies to ensure the best possible quality of veterinary and equine dental provider services for the people of Texas.

The Board's principal purpose is to ensure that the citizens of Texas have the services of veterinarians, licensed veterinary technicians, and equine dental providers. Each of which have demonstrated the ability to meet or exceed established minimum qualifications to enter practice in this state and to hold those licensees accountable to abide by the laws of the state and the rules of the Board.

B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed.

Licensing:

The Licensing Division is charged with ensuring that only those persons who have demonstrated the ability to meet or exceed the minimum qualifications required to be a licensed veterinarian, veterinary technician, or equine dental provider in the state of Texas, enter the practice and provide veterinary and equine dental services to Texas' citizens.

This division provides the following services: Application Processing, Consumer Services, and Licensing/Examinations.

Application Processing and Consumer Services has three functions:

- 1) assisting applicants in pre-licensure;
- 2) registration of licenses; and
- 3) providing information to consumers.

Staff reviews applications for completeness and communicate with the individual about missing documentation and the status of their applications. In addition, they assure that individuals who are licensed as veterinarians, licensed veterinary technicians, and equine dental providers have met the minimum standards and basic educational preparation necessary to practice safely. The division is responsible for answering questions related to all aspects of licensing.

Licensing/Examinations includes administering exams and licenses for veterinarians, veterinary technicians, and equine dental providers. The licensing specialists examine the application content and documentation to determine whether applicants meet requirements of the statute and rules. They may also need to request additional documentation from applicants. For example, licensing specialists often must review documentation from foreign countries to determine whether the applicants meet statutory requirements. The division also creates and administers exams necessary for the various types of licenses. Licensing specialists also provide information regarding license verifications to other states at the request of the licensees.

Enforcement:

The Enforcement Division conducts investigations based on complaints received from the public, from other local, state, and federal agencies, and generated from compliance inspections.

Complaints are reviewed to ensure the Board has jurisdiction. Complainants are then notified and explained the investigative process and potential time frame. Respondents are notified and explained the investigative process.

Investigators conduct interviews with complainants, respondents and witnesses to obtain facts to support or refute the allegations in the complaint. Investigators also obtain all relevant records. This information is used to prepare a Report of Investigation for presentation to a staff enforcement committee or to the board member enforcement committee for review.

Investigations bring about disciplinary actions in cases where violations are found. This is intended to result in improvement from the licensee and more confidence for the public that the regulatory function is effectively ensuring safety for their animals as they receive veterinary care. Even when violations are not found, the licensee's experience of going through the investigative process can prove to be a learning opportunity for the respondent in that it provides some insight that might not have been gained otherwise. For example, insight on particular treatment methods and practices offered by board veterinarians during informal conferences are often enlightening and helpful for the licensee.

Investigators conduct unannounced inspections to ensure compliance with Board Rules and the Veterinary Licensing Act by the licensed veterinary community and licensed equine dental providers.

Inspections generate investigations (cases) when serious non-compliance problems are discovered. The most serious and most common cases generated from inspections involve problems with controlled substances.

Inspections provide training opportunities for veterinarians and staff in a multitude of categories to include Board rules and Best Practices.

Inspections also bring to the attention of the Board some serious problems with licensees that have psycho-social issues that bring into question their fitness to practice. There is a small contingent of licensees that generally function in isolation from the veterinary community at large.

Without inspections, troubled isolated licensees can go unnoticed for lengthy periods of time, while posing some risks to the public due to their non-compliance to rules and lack of knowledge of ever-changing veterinary practice standards.

Enforcement staff receives calls from many veterinarians with inquiries based on real time problems that need accurate and expedient guidance regarding the Veterinary Licensing Act and Board Rules. Staff diligently assists licensees with such requests. Agency Investigators serve dual roles as Investigators and Inspectors. As investigators they conduct reviews of complaints, complete investigations and determine if a jurisdictional violation has occurred. Investigations requiring medical expertise are investigated and sent to a medical reviewer who is a veterinarian for their review and determination if the violation is a result of a standard of care. Once an investigation is complete, it sent to the legal division with a recommendation for prosecution or dismissal.

As inspectors, they carry out the Board's compliance inspection program which is a valuable tool not only to ensure standards are met, but also to educate licensees

and reduce violations and subsequent complaints. The Board does not license veterinary facilities; however, certain standards are outlined in the Veterinary Practice Act and Administrative Rules that require the Board to conduct inspections. The largest and most visible is the security and handling of controlled substances.

General Counsel's Office

The General Counsel's office, also referred to as the legal division, includes the General Counsel, an attorney, a legal assistant, and a compliance investigator. The General Counsel's office represents the Board in legal matters and provides legal counsel and support to the Board and agency staff.

The division prosecutes cases against licensees, license applicants, and unlicensed persons, who have violated the Texas Veterinarian Licensing Act or related Board Rules. Attorneys may resolve cases informally after either a Staff Conference and/or an Informal Conference ("IC") produces a proposed agreed order or in some cases a proposed cease and desist orders. If an agreed order is not mutually agreed to by both parties the matter is referred for formal adjudicative action at the State Office of Administrative Hearings ("SOAH"). The Division is responsible for conducting the legal research and prosecution at SOAH.

The division provides support to the Office of the Attorney General in all administrative appeals and all matters involving the support and defense of the law and Board Rules in any judicial proceedings outside of SOAH. Additionally, the division is responsible for reviewing rule and policy making initiatives, amendments, and repeals to Board rules.

The division also regularly interacts with the public concerning questions on legal matters, including the Texas Veterinary Licensing Act, the Board's Rules, and other applicable statutes and rules governing state government functions, such as the Texas Public Information Act and Open Meetings Act.

The division's compliance investigator is responsible for monitoring compliance with Board orders, compliance with continuing education and reviewing criminal history returns from the statutory required fingerprinting process.

Administration

The remainder of the Board's functions are: Executive and Finance. These two divisions provide the direction and support necessary for agency operations.

C. What, if any, functions does your agency perform that are no longer serving a clear and ongoing purpose? Which agency functions could be eliminated?

The agency does not believe any of the agency's functions are no longer needed or should be eliminated.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions?

The agency does believe the enabling law correctly reflects the mission, objectives and approach to performing its functions.

E. Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

In working with Senator Watson's office during the 86th legislative session, the agency responded to request for a better solution for monitoring and regulating controlled substances. As a result of information provided, a budget rider was filled to increase the number of FTE's to enhance the agency's inspection program. This rider was filed on both the house and senate and ultimately adopted to article XI and not funded. Below is the Rider language:

Appropriation: Controlled Substance Inspection & Education Program. In addition to the amount appropriated above the Board of Veterinary Medical Examiners is hereby appropriated in strategy A.2.1, Complaints and Action, \$968,840.00 in FY20 and 968,840.00 in FY21. From these funds, and in addition to conducting controlled substance inspections, the board shall conduct periodic training seminars for licensees which shall include information about the veterinary practice act, controlled substance security, drug diversion and methods to prevent diversion.

In addition to the "Number of Full-Time-Equivalents (FTE)" positions authorized above, an additional 10 FTE positions are authorized or each year of the 2020-21 biennium.

These appropriations are contingent upon the Board of Veterinary Medical Examiners assessing fees during the 2020-21 biennium sufficient to generate revenue (Object Code 3175) necessary to cover the General Revenue appropriations made above in Strategy A.2.1, Complaints and Action, identified in this rider. In the event that actual and/or projected revenue collections are insufficient to offset the costs identified in this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts reduce the appropriation authority provided above to be within the amount of revenue expected to be available.

Another initiative, request by the Texas Veterinary Medical Association, was the inclusion of Board Investigators, licensed as Texas Peace Officers, in Article 2.12 of the Code of Criminal Procedures. This would allow qualified investigators to be commissioned as Texas Peace Officers to investigate criminal violation of the Veterinary Practice Act and related Health and Safety Code violations, such as, Practicing Without a License and Controlled Substance Violations. This was filed by Representative Guillen as HB1099 which passed both the House and the Senate, then vetoed by the Governor.

F. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

The board's functions in general do not overlap or duplicate those of another state or federal agency. However, the Board is often responsible for enforcing the laws and regulations of other entities on a day to day basis; while those other entities may address the larger cases. Specifically, the Drug Enforcement Administration (DEA) has specific laws and regulations regarding dangerous drugs and controlled substances, including the handling of such drugs and the monitoring of their use. The Board has a good working relationship with the DEA and routinely collaborates on monitoring and inspecting the veterinary population for compliance with applicable laws and regulations.

The Board also works many cases where an individual is practicing veterinary medicine or equine dentistry without a license. This offense is also a criminal offense over which local law enforcement would have jurisdiction. The Board often finds that local law enforcement does not have either the resources or expertise to pursue these types of cases.

G. In general, how do other states carry out similar functions?

Texas is member of the American Association of State Veterinary Boards (AASVB) and participates in national discussions and best practices. All states that license veterinarians have a licensing agency similar to Texas, with some states licensing veterinary technicians and a few states licensing equine dental providers. All states have minimum competency requirements and standards for licensees. All states investigate complaints against licensees, but differences exist in the number of investigations undertaken as well as enforcement priorities. The scope of practice permitted for a license varies from state to state.

H. What key obstacles impair your agency's ability to achieve its objectives?

The agency doesn't have any key obstacle that impair its objectives other than staffing and the inability to adequately prosecute criminal violation of the act.

I. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).

The agency doesn't have any changes that could impact key functions.

J. Aside from additional staff or funding, what are your agency's biggest opportunities for improvement in the future? For example, are there other programs or duties the agency could take on to better carry out its mission?

The agency has worked since the last sunset review to reconnect with the licensee's and professional associations to provide open lines of communications

to better educate the licensees. This has proven beneficial in obtaining voluntary compliance through education.

K. Overall, how does the agency measure its effectiveness in carrying out its objectives?

The agency measures its effectiveness in carrying out its objectives by continually monitoring complaints to address reoccurring issues.

In the following chart, provide information regarding your agency’s key performance measures, including outcome, input, efficiency, and explanatory measures. See Exhibit 2 Example. Please provide both performance measures listed in the agency’s appropriated bill pattern and other performance indicators tracked by the agency. Please provide information regarding the methodology used to collect and report the data.

**Texas State Board of Veterinary Medical Examiners
Exhibit 2: Key Performance Measures — Fiscal Year 2018**

Key Performance Measures	Dataset Reference Number* (if applicable)	Calculation (if applicable)	FY 2018 Target	FY 2018 Actual Performance	FY 2018 % of Annual Target
Percentage of Licensees with No Recent Violations			97%	97.26%	100.27%
Percent of Licensees Who Renew Online			91%	92.48%	101.63%
Percentage of Complaints Resulting in Disciplinary Action			34%	37.02%	108.88%
Recidivism Rate for Peer Assistance Programs			6%	0%	0%
Number of New Licenses Issued to Individuals			695	720	103.60%
Number of Licenses Renewed (Individuals)			10000	8952	89.52%
Number of Complaints Resolved			430	59	48.37%
Average Time for Complaint Resolution (Days)			180	382	212.22%
Number of Jurisdictional Complaints Received			420	359	85.48%
Number of Licensed Individuals Participating in a Peer Assistance Program			22	22	100%

Table 2 Exhibit 2 Key Performance Measures

***See Exhibit 3**

- L. Please list all key datasets your agency maintains. Why does the agency collect these datasets and what is the data used for? Is the agency required by any other state or federal law to collect or maintain these datasets? Please note any “high-value data” the agency collects as defined by Texas Government Code, Section 2054.1265. In addition, please note whether your agency has posted those high-value datasets on publicly available websites as required by statute.

Texas State Board of Veterinary Medical Examiners
Exhibit 3: Key Datasets

Dataset Reference Number	Dataset Name	Description of Data	Data Maintained By	Hyperlink (if publicly available)	Legal Prohibition to Disclosure Y/N
Not Applicable					

Table 3 Exhibit 3 Key Datasets

III. History and Major Events

- 1911 The 32nd Legislature passed House Bill 62, creating the Veterinary Licensing Act (the “Act”) and the Texas State Board of Veterinary Medical Examiners. The newly created Board was charged with regulating the practice of veterinary medicine, surgery and dentistry according to the new Veterinary Licensing Act.
- 1920 The 36th Legislature repealed the 1911 law and passed Senate Bill 83 as the new Veterinary Licensing Act. The new law continued the Board, required licensees to have their certificate of license recorded in the office of the District Clerk of the county where they resided and to display the license. The law provided the Board with the ability to refuse to admit for examination persons who obtained a license, certificate or diploma illegally or fraudulently.
- 1953 The 53rd Legislature amended the Act, giving the Board the authority to hire an Executive Secretary and other staff as it deemed advisable to carry out the purposes of the Act. The amendment also gave the Board the ability to adopt rules of professional conduct and outlined the qualifications of a person seeking licensure. The Board was also given the ability to impose civil penalties and other sanctions to enforce the rules set by the Board.
- 1957 The 55th Legislature amended the Act, fixing a venue for appeals from orders of the Board. The Act established the Veterinary Fund where all fees collected by the Board were deposited. The Veterinary Fund was to be utilized to pay compensation and expenses of Board members, salaries and expenses of employees and all other costs of the Board in the administration of the Act. No funds were to be paid out of the General Fund of the State for the administration of the Act.
- 1959 The 56th Legislature amended the Act, removing limitations to the Board’s ability to adopt, alter or amend rules of professional conduct and gave the Board the ability to adopt rules that were “appropriate to establish and maintain a high standard of integrity, skills and practice in the profession” as well as adding the violation of the rules of professional conduct and allowing another individual to use their license or certificate to practice veterinary medicine to the list of grounds for the suspension or revocation

of a license as well as grounds to refuse to examine an applicant, issue or renew a license. The Act was also amended to allow licensees who were full time members of colleges and provided services for the sole benefit of the school or college and who did not engage in private practice to pay only half of the annual renewal fee.

- 1965 The 59th Legislature added county attorneys to the list of those who may institute an injunction against the unlawful practice of veterinary medicine.
- 1967 The 60th Legislature removed the term “moral turpitude” from the list of reasons that a license may be revoked or suspended or when the Board could refuse to examine an applicant or issue/renew a license and listed the offense as “convicted of a felony”. The Act was also amended to prohibit the Board from spending beyond what was appropriated and raised the amount after which funds would revert from the Veterinary Fund to the General Fund from \$20,000 to \$40,000.
- 1981 The 67th Legislature completed a major revision of the Act, adding language that required the Board to follow the State’s Open Meetings law and Administrative Procedures and Texas Register Act. The changes added 3 members to the Board (2 public and 1 veterinarian), revised the rules regarding Board member qualifications to allow for public members, and removed the set per diem and travel reimbursement for members. Also included in this revision were such items as instructions concerning ethics for members and staff, grounds for removal from the Board, development of a career ladder and annual performance system as well as the removal of the requirement for the Attorney General’s office to approve all rules and language that set in place avenues for legislative input into rule making. Veterinarians were required to maintain a record keeping system for controlled substances and the Board was prohibited from restricting advertising. New requirements for the Board’s interaction with its licensees and the public were put in place, including a requirement that the Board advise examinees of their scores within specific timeframes, provide failing examinees with an analysis of their performance on the exam and a requirement for the Board to prepare and make available consumer information on the regulatory functions of the Board, including the complaint process. For the first time, the Board was permitted to set the fees they would collect although limits were set on the amounts of those fees and the State Auditor’s Office would be required to perform financial audits of the Veterinary Fund at least once each fiscal biennium. The Board would submit written reports to the Governor and Legislature detailing funds received and dispersed. Other items added to the Act allowed the Board to

establish a voluntary continuing education program, required that the Board suspend the license of those convicted of a controlled substance felony and placed restrictions on the reinstatement of those licenses. Failure to report a disease to the Texas Animal Health Commission was added to the list of offenses that could cause the revocation or suspension of a license.

- 1987 The 70th Legislature added provisions for a Special License. The ability to take disciplinary actions, including civil penalties, was added as well as language classifying fraud as a class B misdemeanor for Board members and staff. The amount after which funds would revert from the Veterinary Fund to the General Fund was raised to \$150,000. A \$110 temporary fee was added to exam and renewal fees and the Board member composition was changed to reflect 6 veterinarians and 3 public members.

- 2011 The 82nd Legislature established application requirements and qualifications for an equine dental provider (EDP) license, which is issued by the Board, established the responsibility and scope of practice of the license holder, established continuing education requirements for renewal of the license, and made related changes. House Bill 414 amended the Occupations Code to prohibit a person from performing equine dentistry unless the person is a veterinarian or a licensed equine dental provider under the supervision of a veterinarian. The bill required the Board to develop and administer a specific EDP jurisprudence examination and to adopt rules and procedures to implement the bill's provisions.

- 2013 The 83rd Legislature established the authorization for the Board to administer a licensing and regulatory program for veterinary technicians. This law became effective September 1, 2014. This law allowed for a grandfathering period which started on September 1, 2013 and ended on September 1, 2014. After September 1, 2014 an individual may not use the term 'LVT' or refer to themselves as a 'Licensed Veterinary Technician' without a license from this Board. The law required the Board to develop and administer a specific jurisprudence examination and to adopt rules and procedures to implement the bill's provisions.

- 2017 Sunset Review identifying the following issues:
 - Issue 1 - The State Has a Continuing Need to Regulate the Practice of Veterinary Medicine, but the Agency Struggles Administratively.

 - Issue 2 - The Agency's Enforcement Processes Cannot Ensure Fair Treatment of Licensees and Complainants.

 - Issue 3 - The State Has an Ineffective and Inconsistent Approach to Monitoring Potential Diversion of Controlled Substances by Veterinarians.

Issue 4 - Key Elements of the State Board of Veterinary Medical Examiners' Statutes, Rules, and Policies Do Not Conform to Common Licensing Standards.

Issue 5 - Recent Court Decisions Exempt Animal Shelter Veterinarians from Regulation.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas State Board of Veterinary Medical Examiners
Exhibit 4: Policymaking Body

Member Name	Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	City
Jessica Quillivan, DVM	Governor	Industry	Magnolia
Keith Pardue	Governor	Public	Austin
Sandra "Lynn" Criner, DVM	Governor	Industry	Needville
Michael White, DVM	Governor	Industry	Conroe
Samantha Mixon, DVM	Governor	Industry	Boerne
Randall Skaggs, DVM	Governor	Industry	Perryton
Carlos Chacon	Governor	Public	Houston
Sue Allen, LVT	Governor	Industry	Waco

Table 4 Exhibit 4 Policymaking Body

B. Describe the primary role and responsibilities of your policymaking body.

The primary role and responsibilities of the policy-making body include the following:

- Employs the Executive Director and ensures that the Executive Director carries out the management and administration of Board functions;
- Sets policy for the Board;
- Passes rules to implement the Veterinary Licensing Act, establishes standards of veterinary and equine dental practice and regulates the practice of veterinary medicine and equine dental practice.
- Exercises decision making authority on disciplinary actions;
- Reviews key documents such as Annual Financial Report and Legislative Appropriations Request, performance reports, customer service surveys and various audits of Board operations;
- Sets licensing fees;

C. How is the chair selected?

The Board President is appointed by the Governor from among Board members, as per §801.055(b) of the Veterinary Licensing Act.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

The Board consists of 9 members appointed by the Governor with the advice and consent of the Senate. Six veterinary members are appointed and three public members.

Enforcement Committee members are appointed by the President of the Board. There are always 2 licensed veterinarians on the board serving a staggered 2-year term and all public members serve on the committee (1 public member per meeting) on a rotating basis.

Executive Disciplinary Committee members are appointed by the President and consist of the President, the Board Secretary, and one public board member.

Equine Dental Provider Advisory Committee members are appointed by the President. The committee consists of 2 equine dental provider licensees who have resided in and engaged in the practice of smoothing or filing teeth by floating in this state for the 5 years immediately preceding the date of appointment and are of good repute and a veterinarian licensee that has an active license, in good standing and who supervises a licensed equine dental provider.

Rules Committee members are appointed annually by the President of the Board.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2017? In FY 2018?

The Board meets Quarterly. The board met quarterly in FY17 and FY18.

F. Please list or discuss all training members of the agency's policymaking body receive. How often do these members receive training?

All Board members receive a notebook of information including:

- Veterinary Licensing Act
- Board Rules
- Most recent audit information
- Strategic Plan
- Legislative Appropriation Request
- Annual Financial Report
- Board Organizational Chart
- Link to the Open Meetings Act training provided by the Office of the Attorney General

In addition, they receive in-person orientation and training by the Executive Director upon appointment and may sit in on the training again at any later point. The orientation provides the attendees an overall explanation of the Board's jurisdiction, powers, functions and duties of the Board member. In addition, there is training presented about the Texas laws that govern board activities, including Board statutes and rules, the Open Meetings Act, the Public Information Act, the Administrative Procedure Act, and legal provisions regarding ethical conduct. They are also informed of the responsibilities of the Board and the process of the Board in licensing and resolving complaints. New members

are also given the mandatory ethics during the orientation. They also receive specific required training on state contracting laws and rules.

New board members are encouraged to attend an orientation program conducted by the Governor's Office. Also, during regularly scheduled full board meetings, the members are provided training on various topics related to the Board's activities. In the past, these Board development sessions have included such topics as financial reporting for state agencies and legislative appropriations process and budgeting by Board staff. The Agency's bill pattern has been taught line by line and discussed in detail with the goal of the Board having a clear understanding of the funding for the Agency's strategies. There was also training where the General Appropriations Act was reviewed to explain the budgeting process with the Legislature and revenue requirements.

G. What information is regularly presented to your policymaking body to keep them informed about the agency's operations and performance?

The board receives an Executive Director's Report which includes information in Staffing, Budget, and other operational information.

H. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

The Board, at every Board meeting, receives formal reports are provided in addition to frequent informal conversations and communications between the Executive Director and board members.

In addition, the Board is presented with periodic audit reports conducted concerning the agency and its activities as required by law. The results of any external audit are presented to the Board at the board meeting following the audit report.

I. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. See Exhibit 5 Example. For advisory committees, please note the date of creation for the committee, as well as the abolishment date as required by Texas Government Code, Section 2110.008.

Board members receive comments regarding issues under the Board's jurisdiction in connection with the public meetings. The public is invited to each board meeting to make public comments or provide written comments on any issue. Written public comment on Board rules received by Board staff are also forwarded to the members of the Rules Committee for their consideration during their meetings as well as to the full Board for their consideration in the public meeting. The agency and the Board abide by the requirements of the Government Code as well as the Administrative Procedure Act relating to open meetings and public comments regarding rulemaking.

All materials prepared and distributed for board members in advance of a meeting. In addition to posting proposed rules in the *Texas Register* for public comment, those rules appear on the Board's web site, together with a summary of the rule. The public has

additional access to matters disclosed pursuant to the Administrative Procedure Act, the Public Information Act and the Open Meetings Act in a convenient and easily understood format.

The Board also engages in stakeholder meetings with interested parties on controversial or difficult issues. The Board staff also conducts informal meetings with stakeholders in person, by phone and/or email regarding issues under the jurisdiction of the Board. The Board works with the Texas Veterinary Medical Association, which represents veterinarians across Texas and the Texas Association of Registered Veterinary Technicians, which represents now licensed veterinary technicians across Texas on issues and rules before the Board.

In addition, please attach a copy of any reports filed by your agency under Texas Government Code, Section 2110.007 regarding an assessment of your advisory committees as Attachment 25.

**Texas State Board of Veterinary Medical Examiners
Exhibit 5: Subcommittees and Advisory Committees**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Enforcement Committee	3/2 veterinary board members, 1 public board member/appointed by the Board President	Attend and offer disciplinary recommendations at informal conferences and temporary suspension hearings	Section 801.408(c) of the Veterinary Licensing Act	
Executive Disciplinary Committee	3/President and 2 other Board members/appointed by the Board President	Attend and vote on temporary license suspension hearings-(no notice)	Section 801.409(a) of the Veterinary Licensing Act	
Equine Dental Provider Advisory Committee	3/2 EDPs and 1 veterinary licensee who supervises an EDP/ appointed by the Board President	Advise and assist Board in adopting rules relating to licensed equine dental providers. Board consults committee on disciplinary matters regarding licensed equine dental providers.	Section 801.551 of the Veterinary Licensing Act	

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Rules Committee	4/varies/ appointed by the Board President	Evaluates issues, receives and considers public input and develops proposed rules for the full Board.	Section 801.163 of Veterinary Licensing Act	
Ad Hoc Committees	4 or less/varies/ appointed by the Board President	The Board may appoint temporary committees to assist in resolving particular veterinary or equine dental provider issues.	Section 801.163 of Veterinary Licensing Act	

Table 5 Exhibit 5 Subcommittees and Advisory Committees

V. Funding

A. Provide a brief description of your agency's funding.

Method of finance is General Revenue and Appropriated Receipts.

B. List all riders that significantly impact your agency's budget.

There are no new riders since the last review.

C. Show your agency's expenditures by strategy. See Exhibit 6 Example.

Texas State Board of Veterinary Medical Examiners Exhibit 6: Expenditures by Strategy — 2018 (Actual)

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Operate Licensure System	\$258,167.14	17%	\$23,000.00
Complaints and Action	\$855,981.75	55%	\$4,567.75
Peer Assistance	\$42,009.57	3%	\$42,009.57
Texas.gov	\$39,986.00	3%	\$39,986.00
Licensing – Indirect Admin	\$35,000.00	2%	\$0.00
Complaints and Action Indirect Admin	\$85,000.00	5%	\$0.00
GRAND TOTAL:	\$1,316,144.46	100%	

Table 6 Exhibit 6 Expenditures by Strategy

- D. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines. See Exhibit 7 Example.**

(Texas State Board of Veterinary Medical Examiners

Exhibit 7: Sources of Revenue — Fiscal Year 2018 (Actual)

Source	Amount
General Revenue Fund	\$1,353,264.00
TOTAL	\$1,353,264.00

Table 7 Exhibit 7 Sources of Revenue

- E. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 8 Example.**

Texas State Board of Veterinary Medical Examiners

Exhibit 8: Federal Funds — Fiscal Year 2018 (Actual)

Type of Fund	State / Federal Match Ratio	State Share	Federal Share	Total Funding
	0	0	0	0
TOTAL	0	0	0	0

Table 8 Exhibit 8 Federal Funds

- F. If applicable, provide detailed information on fees collected by your agency. See Exhibit 9 Example.**

Texas State Board of Veterinary Medical Examiners

Exhibit 9: Fee Revenue — Fiscal Year 2018

Fee Description/ Program/ Statutory Citation	Current Fee	Fees Set by Statute or Rule?	Statutory Maximum or Minimum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
<i>*new*</i> Veterinary Regular License	\$515.00	Rule	No	528	271,920	GR
<i>*new*</i> DVM Special License	\$575.00	Rule	No	4	2,300	GR
<i>*new*</i> DVM Provisional License	\$600.00	Rule	No	0	0	GR
<i>*new*</i> DVM Temporary License	\$200.00	Rule	No	5	1,000	GR

Fee Description/ Program/ Statutory Citation	Current Fee	Fees Set by Statute or Rule?	Statutory Maximum or Minimum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
<i>*new*</i> Equine Dental Provider License	\$100.00	Rule	No	1	100	GR
<i>*new*</i> Veterinary Tech License	\$50.00	Rule	No	179	8,950	GR
<i>*renewal*</i> Veterinary Regular License	\$195.00	Rule	No	*	*	GR
<i>*renewal*</i> DVM Special License	\$209.00	Rule	No	*	*	GR
<i>*renewal*</i> DVM Inactive License	\$109.00	Rule	No	*	*	GR
<i>*renewal*</i> Equine Dental Provider License	\$83.00	Rule	No	*	*	GR
<i>*renewal*</i> Equine Dental Provider Inactive License	\$56.00	Rule	No	*	*	GR
<i>*renewal*</i> Veterinary Technician Regular License	\$50.00	Rule	No	*	*	GR
<i>*renewal*</i> Veterinary Technician Inactive License	\$26.00	Rule	No	*	*	GR
<i>*expired license renewal*</i> Veterinary Regular License	\$280.00	Rule	No	*	*	GR
<i>*expired license renewal*</i> Veterinary Special License	\$296.00	Rule	No	*	*	GR
<i>*expired license renewal*</i> Veterinary Inactive License	\$160.00	Rule	No	*	*	GR
<i>*expired license renewal*</i> Equine Dental Provider License	\$124.00	Rule	No	*	*	GR

Self-Evaluation Report

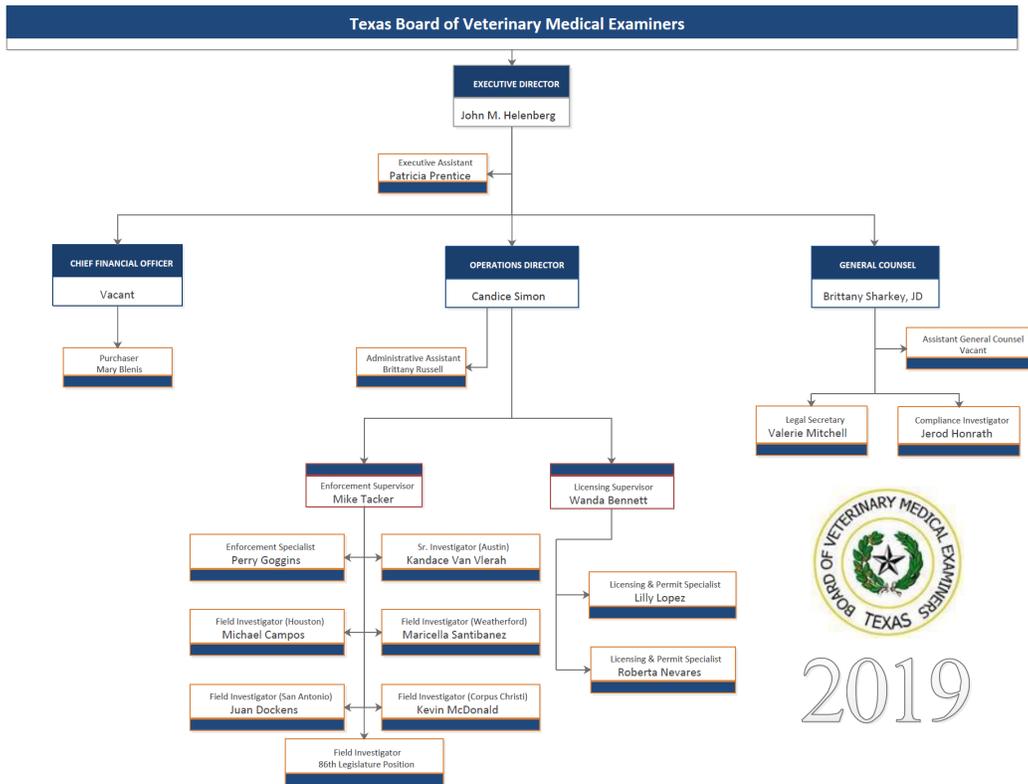
Fee Description/ Program/ Statutory Citation	Current Fee	Fees Set by Statute or Rule?	Statutory Maximum or Minimum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
<i>*expired license renewal* Equine Dental Provider Inactive License</i>	\$81.50	<i>Rule</i>	<i>No</i>	*	*	<i>GR</i>
<i>*expired license renewal* Veterinary Technician Regular License</i>	\$75.00	<i>Rule</i>	<i>No</i>	*	*	<i>GR</i>
<i>*expired license renewal* Veterinary Technician Inactive License</i>	\$36.50	<i>Rule</i>	<i>No</i>	*	*	<i>GR</i>

Table 9 Exhibit 9 Fee Revenue

- System Limitation prevent a data query of renewals past the last FY.

VI. Organization

- A. Provide an organizational chart that includes major programs and divisions and shows the number of FTEs in each program or division. Detail should include, if possible, department heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.



- B. If applicable, fill in the chart below listing field or regional offices. See Exhibit 10 Example.

**Texas State Board of Veterinary Medical Examiners
Exhibit 10: FTEs by Location — Fiscal Year 2019**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2019	Number of Actual FTEs (as of SER submission)
Headquarters	Austin	Yes	22	18
			TOTAL:	TOTAL:

Table 10 Exhibit 10 FTEs by Location

C. What are your agency’s FTE caps for fiscal years 2017–2020?

The Agency FTE Caps are as follows:

FY17 20

FY18 22

FY19 22

FY20 21

D. How many temporary or contract employees did your agency have in fiscal year 2018? Please provide a short summary of the purpose of each position, the amount of expenditures per contract employee, and the procurement method of each position.

The agency did not use contract employees in FY18.

E. List each of your agency’s key programs or functions, along with expenditures and FTEs by program. See Exhibit 11 Example.

Texas State Board of Veterinary Medical Examiners
Exhibit 11: List of Program FTEs and Expenditures — Fiscal Year 2018

Program	Actual FTEs FY 2018	Budgeted FTEs FY 2019	Actual Expenditures FY 2018	Budgeted Expenditures FY 2019
Licensing	6	7	(Number)	(Number)
Enforcement	14	14		
TOTAL	20	21	(Number)	(Number)

[Table 11 Exhibit 11 List of Program FTEs and Expenditures](#)

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Goal A – Veterinary Regulation

Location/Division: Austin

Contact Name: Wanda Bennett, Licensing Supervisor and Michael Tacker, Enforcement Supervisor and Brittany Sharkey, General Counsel

Number of Actual FTEs as of September 3, 2019: 19

Statutory Citation for Program: Licensing – Subchapter F Sections 801.251 – 801.266 of the Texas Occupations Code; Enforcement – Sections 801.401 and 801.402 and Subchapters I through K of Chapter 801 of the Texas Occupations Code; Legal – Sections 801.158 – 801.508 of the Texas Occupations Code

B. What is the objective of this program or function? Describe the major activities performed under this program.

Licensing Division

The Licensing Division is charged with ensuring that only those persons who have demonstrated the ability to meet or exceed the minimum qualifications required to be licensed in the state of Texas and provide veterinary services to Texas's citizens.

In order to receive a license as a veterinarian (DVM) to practice veterinary medicine in this state, a person must demonstrate that they are at least 18 years of age; have obtained at least a passing score on the North American Veterinary Licensing Examination (NAVLE), or its predecessors (the National Board Exam and the Clinical Competency Test), and the State Board Exam (SBE); and have graduated from a school or college of veterinary medicine that is approved by the Board and accredited by the Council on Education of the American Veterinary Medical Association (AVMA). Applicants who did not graduate from an AVMA-accredited veterinary college must possess a certificate of completion from the Educational Commission for Foreign Veterinary Graduates (ECFVG) or the Program for Assessment of Veterinary Education Equivalence (PAVE). The Licensing and Examination Division is responsible for reviewing and verifying that these requirements are met, for assisting prospective licensees with the application process to take the NAVLE, and for administering exams necessary for the various types of veterinary licenses.

To be eligible for licensure as a licensed veterinary technician (LVT) in this state, an applicant must present satisfactory proof to the Board that the applicant is at least 18 years old, has obtained at least a passing score on the Veterinary Technician National Exam (VTNE) and the Licensed Veterinary Technician Exam (LVTE), and is a graduate of an AVMA-accredited veterinary technician program. A person must first take and pass the VTNE in order to apply for the LVTE. The Licensing and Examination Division is responsible for reviewing and verifying that these requirements are met.

To be eligible for licensure as an equine dental provider (EDP), an applicant must present satisfactory proof to the Board that the applicant is at least 18 years old, has obtained at least a passing score of 85 on the Equine Dental Provider Exam (EDPE), and is certified by the International Association of Equine Dentists, Equine-Dental Providers of America or other Board-approved entity. The Licensing and Examination Division is responsible for reviewing and verifying that these requirements are met.

The Licensing and Examination Division is also responsible for the annual renewal of all licenses issued by this Board. Staff of this division review each application and on-line renewal report to ensure that continuing education requirements are met, licensees are in compliance with applicable laws, and that fees are submitted.

Enforcement Division

The Enforcement Division conducts investigations based on complaints received from the public, from other local, state, and federal agencies, and generated from compliance inspections.

Complaints are reviewed to ensure the Board has jurisdiction. Complainants are then notified and explained the investigative process and potential time frame. Respondents are notified and explained the investigative process.

Investigators conduct interviews with complainants, respondents and witnesses to obtain facts to support or refute the allegations in the complaint. Investigators also obtain all relevant records. This information is used to prepare a Report of Investigation for presentation to a staff enforcement committee or to the board member enforcement committee for review.

Investigations bring about disciplinary actions in cases where violations are found. This is intended to result in improvement from the licensee and more confidence for the public that the regulatory function is effectively ensuring safety for their animals as they receive veterinary care. Even when violations are not found, the licensee's experience of going through the investigative process can prove to be a learning opportunity for the respondent in that it provides some insight that might not have been gained otherwise. For example, insight on particular treatment methods and practices offered by board veterinarians during informal conferences are often enlightening and helpful for the licensee.

Investigators conduct unannounced inspections to ensure compliance with Board Rules and the Veterinary Licensing Act by the licensed veterinary community and licensed equine dental providers.

Inspections generate investigations (cases) when serious non-compliance problems are discovered. The most serious and most common cases generated from inspections involve problems with controlled substances.

Inspections provide training opportunities for veterinarians and staff in a multitude of categories to include Board rules and Best Practices.

Inspections also bring to the attention of the Board some serious problems with licensees that have psycho-social issues that bring into question their fitness to practice. There is a small contingent of licensees that generally function in isolation from the veterinary community at large.

Without inspections, troubled isolated licensees can go unnoticed for lengthy periods of time, while posing some risks to the public due to their non-compliance to rules and lack of knowledge of ever-changing veterinary practice standards.

Enforcement staff receives calls from many veterinarians with inquiries based on real time problems that need accurate and expedient guidance regarding the Veterinary Licensing Act and Board Rules. Staff diligently assists licensees with such requests.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.

There have been no changes to performance measures since the last review.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The original intent was not based largely on companion animal veterinary care as it is today. Originally, there was a greater focus on public health and food production animals. Most cases currently are related to veterinary care received by a particular family pet. With the increase in specialty medicine, it is not uncommon for the care of one family pet to generate cases on several veterinarians that have been care providers. The public sentiment regarding animal welfare has also made a dramatic shift. Expectations regarding treatment outcomes has risen with the cost of veterinary care. Available treatments options have greatly expanded.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The public and public health, licensees and staff, animals, veterinary care.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Licensing

The program is administered by the Licensing Supervisor, who reports to the Operations Director and supervises 2 License and Permit Specialists. The Board issues three types of licenses. Each license type has its own requirements that must be met by applicants.

Applicants may apply for:

Regular License

A regular license is issued to any applicant who has met basic application prerequisites and requirements and has passed the Texas State Board Examination (SBE). These licenses have no restrictions or limitations.

Procedure

Upon receipt of a completed application with supporting documentation, as applicable, by the deadline set by Board Rule, the applicant is assigned to the next regularly scheduled examination and advised in writing. The applicant is then given instructions on how to schedule the exam with eStrategy Solutions, our third-

party vendor for the exam. Board Rule requires a completed application at least 45 days prior to the exam date. An item analysis of the exam is also provided to ensure that proper questions are posed, and accurate answers are keyed. Upon passing the licensing examination, a regular license is issued within 10 days after administration of the exam. The first regular license is valid from the date of issuance until the last day of the applicant's birth month, with a duration of at least one year. Late fees apply if not timely renewed, and, after one year of non-renewal, the license is cancelled for failure to renew, as required by law.

Special License

A special license is a limited license issued to applicants who meet basic licensing requirements and prerequisites as set out by law and rule. This license is available only to veterinarians. They must be a member of the faculty or staff of a board-approved veterinary program at an institution of higher education or employed at either the Texas Animal Health Commission or the Texas Veterinary Medical Diagnostic Laboratory. Special licenses may also be issued to those applicants whose specialty has been determined by the Board to be un-represented or under-represented in the State of Texas. Examples of the latter are zoo veterinarians, poultry specialists who are employed by large poultry operations, and research organizations.

Procedure

A special license examination is given on an as-needed basis by appointment only, and the applicant, upon passing the examination, is issued a special license within 24 hours. The first special license is valid from the date of issuance until the last day of the applicant's birth month, with a duration of at least one year. A late fee applies if it is not renewed by the expiration date. After one year of non-renewal, the license is cancelled. If the individual terminates employment with the entity for which such special license was issued, the license automatically becomes null and void.

Provisional License

The provisional license opportunity is no longer necessary. We no longer use scheduling windows to schedule an exam which at times required an applicant to wait up to 3 months before their exam date would be scheduled. The licensing exam is not given on-demand at participating COMIRA Testing Centers nationwide through eStrategy Solutions. The applicant is therefore, provided instructions on how to schedule and take their exam once we have determined their application is complete.

Enforcement

HOW THE BOARD HANDLES COMPLAINTS AGAINST LICENSEES

Complaint Procedure

A. Recording Complaints

A TBVME Complaint Form (Appendix A or Appendix B) will be used to record all complaints received and/or initiated by TBVME personnel.

B. Complaints shall contain at least the following information:

1. The complainant's name and contact information;
2. The name of the person against whom the complaint is submitted;
3. The date and place of the alleged violation; and
4. A description of the facts or conduct alleged to violate the Act or Board rules.

C. Priority of Complaints

1. The Board shall prioritize complaints to resolve the more serious first.

D. Processing Complaints:

Reasonable assistance will be provided to any person who wishes to file a complaint with the board.

1. In Person:

A person desiring to make a complaint will be furnished the complaint form and given directions for completing and submitting.

2. Written Complaint:

In the event a complaint is communicated by letter, email, affidavit or other written document, a TBVME employee will complete a complaint form and attach the complainant's original written document

4. By Telephone:

When a complaint is received by phone the caller will be advised of the above and requested to submit the complaint in writing. If the complainant declines to put the complaint in writing, the complaint should be processed as provided in Section V, Subsection 5.

5. Complaint Not in Writing:

- a. If the complainant refuses to put the complaint in writing, it should be explained that this will not necessarily prevent an investigation from being conducted, but that failure to submit the allegation(s) in writing will cause the matter to be more difficult to process to an effective conclusion.
- b. In instances when a complaint is not received in written form, the TBVME employee will complete a complaint form and forward to the Enforcement Supervisor.

6. Anonymous Complaints - the board will not accept anonymous complaints.

7. Complaints Initiated by TBVME Employee:

A TBVME employee will complete a complaint form and forward to the Enforcement Supervisor when they have firsthand knowledge or reliable information regarding an infraction or illegal act.

8. Upon the initiation of an official investigation, complaints shall be classified into one or more of the following complaint categories:
 - a. Complaints alleging acts or omissions that may constitute a continuing or imminent threat to the public welfare;
 - b. Complaints that require medical expertise to review;
 - c. Complaints that do not require medical expertise to review; or
 - d. Complaints alleging the practice of veterinary medicine or equine dentistry without a license.
- E. Intake
 1. All complaints will be received by the TBVME Enforcement Specialist who will be responsible for assigning a case number and the assignment to an investigator.
 2. The TBVME Enforcement Specialist will be responsible for managing and tracking assigned cases through disposition.
- F. Notifications:
 1. To Complainant:
 - a. The complainant shall be contacted in writing by the assigned investigator upon receipt of the complaint and notified of the projected time requirements for the complaint; unless the notice would jeopardize an investigation.
 - b. This contact shall be made within 48 hours of receiving the assigned case.
 - c. The assigned investigator shall within 48 hours contact the complainant to conduct a detailed, timely, and objective interview.
 - d. The enforcement supervisor may on a case by case basis exempt the assigned investigator from contacting the complainant within 48 hours for special circumstances. Special circumstances may include situations where the assigned investigator is on vacation, sick leave, in training, on special assignment, etc.
 2. To Respondent:

- a. The investigator assigned to the complaint will request in writing all pertinent medical records and a written narrative surrounding the facts and circumstances of the complaint, advising the respondent that he/she has 21 days to respond.
- b. These requests shall be made within 48 hours of receiving the assigned case.
- c. The enforcement supervisor may on a case by case basis exempt the assigned investigator from making these requests within 48 hours for special circumstances. Special circumstances may include situations where the assigned investigator is on vacation, sick leave, in training, on special assignment, etc.
- d. The assigned investigator shall within 48 hours contact the respondent to conduct a detailed, timely, and objective interview.
- e. If a complaint filed with the board against a license holder by a pharmaceutical company or by an insurance professional or insurer relating to insurance covering veterinary services must include the name and address of the pharmaceutical company, insurance professional, or insurer filing the complaint. Not later than the 15th day after the date the complaint is filed with the board, the board shall notify the license holder who is the subject of the complaint of the name and address of the pharmaceutical company, insurance professional, or insurer who filed the complaint, unless the notice would jeopardize an investigation.

3. Investigators will document in all attempts to contact and all communication on the Investigator notes supplement.

G. Investigation:

1. Objective:

The Enforcement Supervisor will be responsible for ensuring a complete, objective, and expeditious investigation of any complaint.

2. Who Shall Investigate:

The assigned investigator will investigate complaints. This includes contacting witnesses, complainants and others involved.

3. Purpose of Investigation:

The purpose of an investigation is to seek out the facts associated with a complaint to ascertain the truth. The investigator shall make every attempt to conduct an investigation in a manner that will prove or disprove the allegations of a violation of the Veterinary Licensing Act, a violation of Board Rules, or an illegal act rather than leave them unresolved.

4. Preliminary Investigation

A preliminary investigation should be conducted to determine:

- a. Whether the Board has jurisdiction over the complaint; and
- b. Whether the matter has been resolved as part of a previous complaint.
- c. The Board has jurisdiction over a complaint if it alleges conduct that, if true, would constitute a violation of the Act or Board rules.
- d. The Board does not have jurisdiction over a complaint that is received after the second anniversary date.
- e. If the preliminary investigation shows that the Board does not have jurisdiction over the complaint the Board may decline to initiate an official investigation. The complainant shall be notified of the reason that the Board declined to initiate an official investigation.
- f. If the Board receives multiple complaints regarding the same respondent and the same alleged violation, the Board may combine the complaints. If the Board receives a complaint with multiple alleged violations, the Board may divide the complaint as needed.

5. Procedure for Investigation:

The investigation shall include:

- a. Contact with the complainant by the investigator to conduct a detailed, timely, and objective interview upon receipt of the complaint. The purpose of this interview is to give the complainant the opportunity to explain the allegations made in the complaint and to secure a comprehensive and factual statement.
- b. Contact with the accused licensee or unlicensed individual (respondent) by the investigator to conduct a detailed, timely, and objective interview. The purpose of this interview is to secure a comprehensive and factual response to the complaint.
- c. Contact with all known witnesses by the investigator to conduct a detailed, timely, and objective interview. The purpose of this interview is to secure a comprehensive and factual response to the complaint.
- d. The investigator should record interviews with the complainant, witnesses, and/or accused licensee or unlicensed individual.
- e. The investigator should obtain statements (written or audial recorded) from complainants, licensee or unlicensed individual, and witnesses to support or refute the allegations being investigated.
- f. The investigator should obtain all known relevant legal evidence and/or other documents to support or refute the allegations being investigated.

- g. The investigator shall periodically notify the complaint parties of the status of the complaint until final enforcement disposition.
 - h. Upon approval of the Enforcement Supervisor the investigator should implement scientific investigative aids (specialist, laboratory services, polygraph, etc.) as deemed necessary to support the integrity of the investigation.
 - i. The investigator shall submit a detailed investigation report fully addressing all allegations made, setting forth the facts as determined, including all statements, pertinent matters or items of legal evidence, supporting documentation, and a summary or synopsis of the case.
 - j. The investigator shall notify the complaint parties upon the completion of the investigation of their finding recommendations and the next step in the process.
6. Length of Investigation
- Complaint investigations shall be completed, reviewed, and submitted to the Enforcement Supervisor not later than ninety (90) calendar days following the receipt of such complaint, unless additional time is granted by the Enforcement Supervisor.

H. Withdrawal of Complaints

A complainant may withdraw a complaint by submitting a written request to the Board.

I. False Information

Whenever a complainant deliberately gives false information causing the TBVME to conduct an investigation the information should be presented to the Enforcement Supervisor.

J. Confidentiality

- 1. It is prohibited for any agency employee having knowledge in or engaged in a complaint investigation to divulge to any person information derived from the investigation, without supervisor approval.
- 2. The board shall protect the identity of a complainant to the extent possible.
- 3. Notwithstanding any confidentiality requirements under Chapter 552, Government Code, or this chapter, a complaint filed with the board against a license holder by a pharmaceutical company or by an insurance professional or insurer relating to insurance covering veterinary services must include the name and address of the pharmaceutical company, insurance professional, or insurer filing the complaint. Not later than the 15th day after the date the complaint is filed with the board, the board shall

notify the license holder who is the subject of the complaint of the name and address of the pharmaceutical company, insurance professional, or insurer who filed the complaint, unless the notice would jeopardize an investigation.

VI. Investigative Action

A. Investigation Review

The Enforcement Supervisor shall be responsible for reviewing and approving all completed investigations.

B. Routing Process

1. The Enforcement Supervisor will complete a case routing form and will forward completed investigations to the Enforcement Specialist.
2. The Enforcement Specialist will transfer the case to Legal.
3. If medical expertise is required, the Enforcement Specialist will forward completed investigations to one Veterinary Board Member or designated veterinarian reviewer for medical review.
4. Upon completion of medical review, the Enforcement Specialist will forward the case to legal.
5. The Enforcement Specialist is responsible for making all status entries into the computer system.

4. **Medical review by Veterinarian Members** - A veterinarian member reviews the case and decide that:

- a. A violation may have occurred;
- b. No violation has occurred;
- c. There is insufficient evidence to confirm that a violation occurred; or
- d. Further investigation is required.

The veterinarian members' decisions are sent back to Enforcement. The case is sent to Legal for further action, if necessary.

5. **No Violation Found** - If the medical review determines that there is no violation, then letters are sent to the complainant and respondent informing them that the case is closed to no violation.

Appeal of Determination of No Violation or Insufficient Evidence –

RULE §575.281 Complaints--Appeals A complainant may request that an investigation be reopened by submitting to the Board information that has not previously been considered and could not have been obtained at the time of the initial investigation. Board staff may determine whether additional investigation is warranted. Source Note:

The provisions of this §575.281 adopted to be effective February 24, 2019, 44 TexReg 708

Legal:

1. Violation May Have Occurred - If the medical review finds that a violation may have occurred, the General Counsel will prepare written allegations of the violations. An informal conference may be scheduled.

2. Notice to Parties – RULE §575.29 Informal Conferences

(a) Reasonable written notice of the time, date, and location of an informal conference shall be provided to the respondent and complainant, if applicable. The notice shall include a statement of the alleged violation(s) to be considered by the informal conference panel.

(b) The respondent and complainant shall each be provided with an opportunity to be heard by the informal conference panel and may be represented by counsel. Deliberations by the informal conference panel are confidential.

(c) The general counsel or a representative of the attorney general shall be present during an informal conference to advise the informal conference panel.

(d) Informal conferences regarding complaints requiring medical expertise shall be conducted by an informal conference panel comprised of two veterinarian Board members and one public Board member.

(e) Informal conferences regarding complaints not requiring medical expertise may be conducted by an informal conference panel comprised of Board staff. The Executive Director may designate the members of this panel.

Source Note: The provisions of this §575.29 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4427; amended to be effective May 12, 2013, 38 TexReg 2763; amended to be effective December 23, 2014, 39 TexReg 10019; amended to be effective November 12, 2017 42 TexReg 6182; amended to be effective May 15, 2018, 43 TexReg 3100

3. Committee Determination - The respondent returns to the conference and is informed of the results of the deliberation. If the Committee has found that a violation occurred, the complainant will be informed, and the recommended sanction is presented to the respondent.

The respondent is not required to accept or reject the proposed sanction at this time.

4. No Violation Found - The parties to the complaint are notified verbally, and later in writing of the decision and the case is closed.

5. **Violation Found** – The parties to the complaint are verbally notified that a violation was found. The General Counsel drafts the alleged violations and proposed sanctions into an Agreed Order which is mailed to the respondent. The respondent, within the specified time, is to accept or reject the Agreed Order.
6. **Respondent Accepts the Agreed Order** - By signing the Agreed Order, the respondent agrees not to contest the allegations and accepts the proposed sanctions. The signed Order is then returned to the Board for formal consideration at its next regularly scheduled meeting.
7. **Board Action (Agreed Order)** - The signed Agreed Order is considered by the Board. Final action on the Order is taken during public deliberations of the Board, but the Board may go into executive session to discuss the Order. In most cases the Board approves the Order without change, but the Board may also amend the Order or reject it.

If the Board amends the Order, the General Counsel will mail the amended Order to the respondent who then has fourteen (14) days from receipt to accept it by signing and returning it to the Board or reject it. If the respondent rejects the amended Order, the case will be presented to an administrative law judge for a formal hearing.

8. **Respondent Rejects the Allegations and/or Sanctions in the Agreed Order** - If the respondent declines to sign the Agreed Order, the Legal Department then refers the case to the State Office of Administrative Hearings for setting of a “contested case” administrative hearing and prepares a Notice of Hearing containing the complaint allegations which is then mailed to the respondent.
9. **Administrative Hearings** - Impartial Administrative Law Judges (ALJs) are employed by the State Office of Administrative Hearings to conduct hearings on contested cases. The hearing is conducted much like a trial in district court, and rules of evidence apply to the proceedings. The respondent is entitled to the assistance of legal counsel. The Board is represented at the hearing by the Legal Department and/or an Assistant Attorney General. The parties are allowed to present relevant evidence (including witnesses) on the issues. The ALJ may question any witnesses. After the hearing, the ALJ will prepare a Proposal for Decision (PFD).
10. **The Proposal for Decision** - The ALJ’s PFD will contain findings of fact (based on the testimony and evidence received) and conclusions of law (which include the relevant sections of the law involved in the case on which a violation may or may not be found). The PFD is presented to the Board and the respondent and any other named parties. Each party is allowed to file exceptions to the findings and conclusions contained in the PFD. The PFD and any exceptions are then sent to the Board for consideration and action.
11. **Board’s Actions on Proposal for Decision** - The Board usually accepts the findings of fact and conclusions of law contained in the PFD. The Board may modify a findings of fact or conclusion of law only under strict legal guidelines. The Board will issue a final order containing the findings and conclusions and assessing sanctions, if indicated.

Appeal of Board Decisions - If the respondent objects to the findings of fact and/or conclusions of law contained in the PFD, or to the Board's action, the respondent may appeal the case to the district courts of Travis County, Texas. From this point, the case is handled like any other civil matter.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

In 2018, the Board increased its fees in the following to cover cost in three areas:

Prescription Monitoring Program (PMP)

The agency's portion of the funding requirement for the operation and maintenance of the PMP is \$95,125.00 in FY18. This was an increase from \$59,723.00 in FY17. This 2018 fee increase was calculated by taking into consideration the revenue that would be collected before the fee increase in January 2018 (approximately \$18,608.00) then subtracting that from the \$95,125.00. The agency anticipated approximately 5,137 active DVM renewals after the fee change was effective in FY18 and \$15.00 was added to cover the increase.

Professional Recovery Network (PRN)

The agency's contract with PRN increased from \$30,000 in FY16 and FY17 to \$42,000 in FY18 and FY19. Active and Inactive licensees pay the PRN fee, since both license types can utilize the PRN. This increase added an additional \$6.00 in 2018.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Licensing

There are no similar services or functions with regards to licensing of veterinarians, veterinary technicians, and equine dental providers.

Enforcement

The primary similarity of services is related to the oversight of Controlled Substances(CS) and CS records, and is between the Board and the U.S. Drug Enforcement Agency (DEA). The Texas criminal statues related to CS offenses fall to local law enforcement for potential criminal charges and federal criminal statutes to DEA. However, the DEA relays heavily on the Board to monitor and discover such problems since we have more contact with our licensees in their clinic environments than the DEA.

Any Texas local law enforcement agency has jurisdiction in criminal offenses within their particular locale regarding violations of the Veterinary Licensing Act. However, they do not often work criminal cases involving the Veterinary Licensing Act.

The Board often contacts local law enforcement to encourage them to prosecute Practicing Veterinary Medicine/Equine Dentistry Without a License cases which is a class A criminal offense. If the case is worked as a criminal offense, there can be significant consequences for the actor(s). These violations pose a significant risk to the public. If the Board handles a Practicing Without a License case administratively without a criminal case, the result is typically that the offender signs a cease and desist order agreeing to discontinue in the criminal activity.

Texas Department of State Health Services (TDSHS), particularly Zoonosis Control Division, has jurisdiction regarding rabies vaccination and prevention protocols and regulations. However, the Board receives a large number of calls from veterinarians requesting advice when a critical rabies incident occurs.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Licensing

There are no similar services or functions with regards to licensing of veterinarians, veterinary technicians, and equine dental providers.

Enforcement

The agency is the only state entity that has direct responsibility for controlled substances kept in veterinary offices. Investigations often cause the Board to contact DEA for

assistance; however, the agency does not have an MOU or other interagency agreements. The Board attempts to avoid investigative actions that could potentially interfere with criminal prosecutions. Criminal investigations conducted by any law enforcement agencies in Texas, often take precedence over the Board's administrative cases.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Licensing

The licensing of veterinarians, veterinary technicians, and equine dental providers does not involve other local, regional, or federal units of government. However, our licensees have the option to utilize the Texas.gov online renewal system for annual renewals.

Also, a coordinated effort between this program, the Office of the Attorney General, and Texas Guaranteed Student Loans ensures that licensees currently in default of a student loan or child support are not able to renew a license issued by this Board.

The Texas Guaranteed Student Loan Corporation (TG) was established under Texas Education Code Chapter 57 to administer a guaranteed student loan program and to provide necessary and desirable services related to the loan program. This Board is required to submit to TG a list of all active licensees on a quarterly basis. From this list, TG identifies the persons who are in default on loans guaranteed by the corporation and reports those persons to the department. Section 57.491, Loan Default Ground for Non-renewal of Professional or Occupational License, of the Texas Education Code, states that we shall not renew the license of a licensee whose name is on the list provided by the corporation unless the licensee presents to us a certificate issued by TG certifying that the licensee has entered a repayment agreement on the defaulted loan or the licensee is no longer in default on a loan guaranteed by the corporation.

Texas Family Code §232.0135 "Denial of License Renewal" provides that "(a) a child support agency, as defined by Section 101.004, may provide notice to a licensing authority concerning an obligor who has failed to pay child support for six months or more that requests the authority to refuse to accept an application for renewal of the license of the obligor. (b) A licensing authority that receives the information described by Subsection (a) shall refuse to accept an application for renewal of the license of the obligor until the authority is notified by the child support agency that the obligor has: (1) paid all child support arrearages; (2) established with the agency a satisfactory repayment schedule or is in compliance with a court order for payment of the arrearages; (3) been granted an exemption from this subsection as part of a court-supervised plan to improve the obligor's earnings and child support payments; or (4) successfully contested the denial of renewal of license..."

Upon notification of a default on student loan payments or child support payments, the Licensing Supervisor will initiate a referral to the Enforcement Division. Pursuant to Rule

573.78, a licensee who has defaulted on a student loan or failed to pay child-support may be subject to disciplinary action by this Board.

Enforcement

The Office of the Attorney General (OAG) is called upon by the Board for assistance in enforcement matters when a cease and desist order has been violated by a non-licensee that previously was found in violation of the Veterinary Licensing Act by practicing veterinary medicine without a license. OAG also represents the Board in district court cases.

The Board has been called upon to share information with USDA particularly on cases involving the interstate transport of animals or interstate distribution of controlled substances. The Board has met with Texas Animal Health Commission investigators regarding shared safety concerns and other common interests.

The Texas Racing Commission requests our assistance a few times a year to accompany them to racetracks on race days. We can be used as a resource if questions arise regarding the appropriateness of actions taken by veterinarians that are working on horses at the venue.

The American Association of Veterinary State Boards (“AAVSB”) maintains a national database that most state veterinary boards, including Texas, report disciplinary actions to. We are notified by AAVSB when one of our licensees has had disciplinary action taken against them by another state board and based on that information, we evaluate the disciplinary action and may open a case against that licensee.

The Pharmacy Board and TBVME have been working closely regarding DEA registrations for prescription narcotics. Notices regarding prescription pad ordering is commonly shared between agencies.

K. If contracted expenditures are made through this program please provide:

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2016;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance;
and
- a short description of any current contracting problems.

L. Provide information on any grants awarded by the program.

This is not applicable as no grants are awarded by the program.

M. What statutory changes could be made to assist this program in performing its functions? Explain.

Licensing

The Licensing Program does not anticipate any statutory changes at this time.

Enforcement

The Board has had some serious, sometimes long term, problems with licensees that seem unfit to practice due to age or health-related physical and/or mental impairments, and impairments due to mental illness. A brief description of the following 4 licensees (identified as A, B, C, and D) are presented as examples of the Board's serious 'fit to practice' issues and its inability to handle the situations well, due to a lack of statutory authority. A better solution is to have clear statutory authority to send licensees with potential fitness to practice problems to third party medical reviewers to more quickly deal with these issues.

Dr. A was a diabetic stroke victim with obvious mental and physical limitations. There were numerous standard of care complaints against him. Dr. A had an office that was in his house. It was separated from his kitchen by short swinging doors. His normal routine was to sit in the kitchen/great room area and verbally communicate with his two veterinary technicians, one being his wife. Dr. A had 18 complaints with the Board and 17 of those were in the last 3 years of his career. Cases were also opened on the two veterinary technicians for practicing without a license. He refused to surrender his license, which was ultimately revoked. There was a significant risk to the public during the three years it took to revoke his license.

Dr. B had a continuing education violation in 2012 and a violation of board order in 2013. The Board's staff received numerous calls from Dr. B when he tried to renew his license the last two times. He was clearly confused, thinking that they were telephone operators, and was extremely forgetful. Two board investigators went to inspect him and he threatened to cut an investigator's hand. His family intervened and tried to get Dr. B to surrender his license, but he refused. The family was unwilling to have him declared mentally incompetent by a judge. Ultimately he was unable to renew his license when he was unable to provide proof of continuing education.

Dr. C had two standard of care complaints against him in 1990 and 1997. He had a complaint in 2011 about him abusing animals. He agreed to a mental health evaluation that revealed some significant problems. The Board did not have authority to order a mental health evaluation if Dr. C had refused. This case was resolved due to the efforts of a veterinarian friend, and Dr. C became convinced that it was time for him to sell his practice, which he did. He then surrendered his license.

Dr. D was contacted during an inspection. The investigator was shocked to find a severe sanitation problem in the clinic and later a hoarding of materials and animals situation in her 3 neighboring houses. Local law enforcement had been dealing with her prior to the 2013 inspection. Ultimately, Dr. D surrendered her veterinary license. She was later arrested on animal cruelty charges.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

We have no additional information.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Licensing

Why the regulation is needed

Licensing of veterinarians, veterinary technicians, and equine dental providers is necessary to protect the public and assure a professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession. A person practicing veterinary medicine in Texas is required to be licensed by sections 801.251 - .258, Texas Occupations Code. Licensing rules are contained in Rules 571.3-65 of the Board.

Sanctions available to the agency to ensure compliance

Sec. 801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

- (1) presents to the board dishonest or fraudulent evidence of the person's qualifications;
- (2) commits fraud or deception in the examination process or to obtain a license;
- (3) is chronically or habitually intoxicated, chemically dependent, or addicted to drugs;
- (4) engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry;
- (5) is convicted of a felony under the laws of this state, another state, or the United States;
- (6) engages in practices or conduct that violates the board's rules of professional conduct;
- (7) permits another to use the person's license to practice veterinary medicine or to practice equine dentistry in this state;

(8) fraudulently issues a health certificate, vaccination certificate, test chart, or other form used in the practice of veterinary medicine or the practice of equine dentistry that relates to the presence or absence of animal disease;

(9) issues a false certificate relating to the sale for human consumption of inedible animal products;

(10) commits fraud in connection with the application or reporting of a test of animal disease;

(11) pays or receives a kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary or equine dental services or goods;

(12) performs or prescribes unnecessary or unauthorized treatment;

(13) orders a prescription drug or controlled substance for the treatment of an animal without first establishing a veterinarian-client-patient relationship;

(14) refuses to admit a board representative to inspect the person's client and patient records and business premises during regular business hours;

(15) fails to keep the person's equipment and business premises in a sanitary condition;

(16) commits gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine or the practice of equine dentistry; (17) is subject to disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine or to practice equine dentistry issued by another jurisdiction; (18) is convicted for an offense under Section 42.09, 42.091, or 42.092, Penal Code; (19) represents the person as a veterinarian without a license issued under this chapter; (20) practices veterinary medicine or assists in the practice of veterinary medicine without a license issued under this chapter; or (21) violates Section 801.353 or a rule adopted by the board related to confidentiality.

ACTS 1999, 76TH LEG., CH. 388, SEC. 1, EFF. SEPT. 1, 1999.

AMENDED BY:

ACTS 2011, 82ND LEG., R.S., CH. 940 (H.B. 414), SEC. 23, EFF. SEPTEMBER 1, 2011.

ACTS 2013, 83RD LEG., R.S., CH. 481 (S.B. 1312), SEC. 8, EFF. SEPTEMBER 1, 2013.

Sec. 801.309. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 801.267. (b) The board may administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a). (c) A license

holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under: (1) Section 801.267 for the initial issuance of the license; or (2) this section as part of a prior license renewal.

ADDED BY ACTS 2017, 85TH LEG., R.S., CH. 536 (S.B. 319), SEC. 18, EFF. SEPTEMBER 1, 2017.

Texas Family Code §232.0135 “Denial of License Renewal” provides that “(a) a child support agency, as defined by Section 101.004, may provide notice to a licensing authority concerning an obligor who has failed to pay child support for six months or more that requests the authority to refuse to accept an application for renewal of the license of the obligor. (b) A licensing authority that receives the information described by Subsection (a) shall refuse to accept an application for renewal of the license of the obligor until the authority is notified by the child support agency that the obligor has: (1) paid all child support arrearages; (2) established with the agency a satisfactory repayment schedule or is in compliance with a court order for payment of the arrearages; (3) been granted an exemption from this subsection as part of a court-supervised plan to improve the obligor's earnings and child support payments; or (4) successfully contested the denial of renewal of license...”.

Upon notification of a default on student loan payments or child support payments, the Licensing Supervisor will initiate a referral to the Enforcement Division. Pursuant to Rule 573.78, a licensee who has defaulted on a student loan or failed to pay child-support may be subject to disciplinary action by this Board.

Enforcement

The Enforcement Division investigates all complaints. This is an essential function that is necessary for the Board to fulfill our mission to serve and protect the public in matters related to veterinary medicine.

The scope of, and procedures for, inspections or audits of regulated entities

Enforcement’s Inspection procedures were created to establish procedures to ensure a consistent, uniform, fair and equal inspection process of TBVME licensees. It is the policy of the Texas Board of Veterinary Medical Examiners to conduct risk-based inspections. The board may conduct risk-based inspections of a veterinarians practice based on information obtained from the veterinarian or another source concerning the veterinarians use, handling, prescribing, dispensing or delivery of controlled substances.

Inspection Procedure

A. Determining which licensees to inspect

While making most efficient use of time and resources Investigators will prioritize inspections using the following criteria:

1. Licensees not inspected in the past ten (10) years or longer,
2. Licensees named in substantive, jurisdictional complaints,
3. Licensees whom the agency has reason to believe dispense or prescribe unusually large amounts of controlled substances,
4. Licensee with the longest period of elapsed time since previous inspection,
5. Licensees with repeated deficiencies,
6. Licensees identified in the PMP monthly report for questionable prescribing or dispensing activity.

B. Pre-Inspection Research

Investigators shall research licensees prior to conducting onsite inspections to assess risk.

1. Investigators shall check the PMP database for practitioners prescribing large amounts of controlled substances and for potentially harmful prescribing patterns,
2. Review previous inspections,
3. Review TBVME database for previous complaints and findings,
4. Research websites for the number of veterinarians and non-veterinarians employed, and type of practice (large, small, mixed animals),

C. Onsite Procedures

1. Investigators will introduce themselves, state the purpose of inspection, present and have TBVME credentials visible.
2. Investigators will answer any questions the licensee may have about TBVME, Rules, Veterinary Act, Occupations Code, Administrative.
3. Discuss current issues or problem areas citing relevant Rules.
4. Examine files and facility; noting any deficiencies, copying, scanning and/or photographing deficiencies.
5. Present findings to facility head/designee and have facility head/designee sign the preliminary Inspection Report acknowledging any correction deadlines, if given.
6. Advise the facility head/designee of the proper methods to correct the deficiencies and to close out the inspection.

7. Email a copy of the preliminary Inspection Report and any documents which may assist the facility as quickly as possible, but by the end of the following business day, at the latest.
8. Investigators will advise facility head/designee they have 30 days to correct deficiencies. Extensions may be given under reasonable circumstances.

Follow-up activities conducted when non-compliance is identified

Investigators may refer inspection findings for further investigation by opening a complaint for:

1. **Repeat violations in the same categories as a previous inspection.**
2. **Failure to correct previous deficiencies.**
3. **Failure to correct current deficiencies.**
4. **Controlled substance logs violations.**
5. **Significant discrepancies in controlled substance logs.**
6. **Controlled substance diversion.**
7. **Controlled substance harmful prescribing patterns.**
8. **Controlled substance storage violations.**
9. **Assess Security of Controlled Substances violations.**
10. **Continued negligence in following Rules or Statutes.**

Sanctions available to the agency to ensure compliance

- **Sec. 801.411. SCHEDULE OF SANCTIONS. (a) The board by rule shall adopt a schedule of penalties, disciplinary actions, and other sanctions that the board may impose under this chapter. (b) In adopting the schedule of sanctions under Subsection (a), the board shall ensure that the severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action. The schedule must provide that the type of disciplinary action or other sanction and the amount of a penalty imposed under this chapter must be based on: (1) the seriousness of the violation, including: (A) the nature, circumstances, extent, and gravity of any prohibited act; and (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public; (2) the economic harm to property or the environment caused by the violation; (3) the history of previous violations; (4) the amount of penalty or type of disciplinary action or sanction necessary to deter a future violation; (5) efforts to correct the violation; and (6) any other matter that justice may require.**

ADDED BY ACTS 2017, 85TH LEG., R.S., CH. 536 (S.B. 319), SEC. 21, EFF. SEPTEMBER 1, 2017.

- Sec. 801.451. IMPOSITION OF ADMINISTRATIVE PENALTY.** The board may impose an administrative penalty on a person, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, who violates this chapter or a rule adopted or order issued under this chapter.

ACTS 1999, 76TH LEG., CH. 388, SEC. 1, EFF. SEPT. 1, 1999. AMENDED BY ACTS 2001, 77TH LEG., CH. 1420, SEC. 14.423(A), EFF. SEPT. 1, 2001.
- RULE §575.25 Recommended Schedule of Sanctions currently in effect, however, October 2019 a new schedule of sanction will be presented to the board for vote.**

Procedures for handling consumer/public complaints against regulated entities.

See section F under Enforcement

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency’s particular programs. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

Texas State Board of Veterinary Medical Examiners
 (Regulatory Program Name)
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2017 and 2018

	Fiscal Year 2017	Fiscal Year 2018
Total number of regulated persons	(number)	(number)
Total number of regulated entities	(number)	(number)
Total number of entities inspected	(number)	(number)
Total number of complaints received from the public	(number)	(number)
Total number of complaints initiated by agency	(number)	(number)
Number of complaints pending from prior years	(number)	(number)
Number of complaints found to be non-jurisdictional	(number)	(number)
Number of jurisdictional complaints found to be without merit	(number)	(number)
Number of complaints resolved	(number)	(number)
Average number of days for complaint resolution	(number)	(number)
Complaints resulting in disciplinary action:	408	306
administrative penalty	132	85

Self-Evaluation Report

	Fiscal Year 2017	Fiscal Year 2018
reprimand	223	137
probation	4	2
suspension	2	0
revocation	1	2
other	90	51

Table 13 Exhibit 13 Information on Complaints Against Persons or Entities

VIII. Statutory Authority and Recent Legislation

- A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2013–2018, or earlier significant Attorney General opinions, that affect your agency's operations.

Texas State Board of Veterinary Medical Examiners Exhibit 14: Statutes / Attorney General Opinions

Statutes

Citation / Title	Authority / Impact on Agency
Chapter 801, Texas Occupations Code	<p>Board's enabling legislation that creates the Board; outlines its general and specific authority; outlines public interest information and complaint procedures; license and renewal of license requirements; outlines general disciplinary authority and procedure, including penalties and sanctions.</p> <p>Authorized in 2011 by HB 414 to license and regulate equine dental providers.</p> <p>Authorized in 2013 by SB1312 to license and regulate licensed veterinary technicians.</p>
Chapter 101, Texas Occupations Code	Creates the Health Professions Council to provide a means for the regulatory agencies represented on the council to coordinate administrative and regulatory efforts. Creates a toll-free telephone complaint system to provide assistance and referral services for persons making a complaint relating to a health profession regulated by the state and establishes a training program for the governing bodies of state agencies that regulate health professions.
Sec. 411.122, Texas Government Code	Authorizes the Board to obtain criminal history record information for an applicant for a license from the board.

Citation / Title	Authority / Impact on Agency
10 CFR section 1300 <i>et seq.</i>	These regulations of the Federal Drug Enforcement Administration are based on the federal law 21 United States Code, Section 801 <i>et seq.</i> Veterinarians must comply with these regulations.
21 United States Code, Section 801 <i>et seq.</i>	This section of the Code contains the federal law on controlled substances, including schedules of controlled substances, and provides the basis for the Texas controlled substance statutes. Veterinarians must adhere to this statute in handling-controlled substances.
Chapters 481, 483 and 485, Health and Safety Code	Chapters 481 and 483 relate to the classification, control and dispensing of controlled substances and dangerous drugs. Since veterinarians often control and dispense controlled substances in their practices, these statutes impact the Board's rules concerning controlled substances. Chapter 485 relates to the use of abusable volatile chemicals that may be possessed by veterinarians. A criminal conviction of a veterinarian under these chapters requires the Board to revoke the veterinarian's license.

Table 14 Exhibit 14 Statutes

Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
<u>JM-46 (July 25, 1983)</u>	TBVME is not required to exempt applicants who are licensed in another state from TBVME's examination requirements. TBVME is authorized to implement a reciprocal licensing system, and may consider any reasonable factors it deems relevant in making licensing determinations.
<u>JM-339 (August 13, 1985)</u>	This opinion helped clarify that veterinarians employed by governmental entities are not exempt from the licensing requirements in the Veterinary Practice Act.
DM-498 (December 22, 1998)	This opinion helped clarify the relationship of veterinarians and non-veterinarian business entities regarding the practice of veterinary medicine. The opinion led to changes in the Veterinary Licensing Act to allow legal sanctions against corporations or business entities that illegally practice veterinary medicine.

Attorney General Opinion No.	Impact on Agency
JC-0421 (October 3, 2001)	This opinion found that a veterinarian who has complied with the statutory notice requirements in section 801.357 of the Texas Occupations Code must release an animal to the owner upon the owner’s demand within the first 12 days after mailing the notice. The animal is considered “abandoned” on the 13 th day, and the veterinarian may dispose of the animal. A veterinarian who has not complied with the statutory notice requirements may not refuse to return the animal to its owner at any time. A veterinarian is required to provide necessary treatment to an animal in his or her custody, and is entitled to reimbursement of reasonable expenses for necessary treatment and boarding.
GA-0547 (May 10, 2007)	This opinion held that TBVME may adopt a rule prohibiting licensees from dispensing controlled substances without a Texas Department of Public Safety registration. TBVME did adopt such a rule and has enforced it.
ORD No. 683 (November 24, 2009)	This opinion clarified section 801.207 of the Act, regarding the Board’s confidentiality provisions. The opinion found that complaints filed with TBVME and a licensee’s response to the complaint are confidential and excepted from public disclosure under the Public Information Act. TBVME may send the licensee a copy of the complaint against them, and may send the complainant a copy of the licensee’s response. TBVME may also send a copy of the licensee’s response to a consulting veterinarian.

Table 15 Exhibit 14 Attorney General Opinions

B. Provide a summary of significant legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass but were significant, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency. See Exhibit 15 Example.

**Texas State Board of Veterinary Medical Examiners
Exhibit 15: 86th Legislative Session**

Legislation Enacted

Self-Evaluation Report

Bill Number	Author	Summary of Key Provisions
SB1947	Watson	Relating to the regulation of the prescribing and dispensing of controlled substances by veterinarians.

[Table 16 Exhibit 15 Legislation Enacted 86th Leg](#)

Legislation Not Passed

86(R) HB 1099	Author: Guillen	Sponsor: Hinojosa et al.
Last Action	06/15/2019 E Vetoed by the Governor	
Caption Version:	Enrolled	
Caption:	Relating to peace officers commissioned by the State Board of Veterinary Medical Examiners.	
86(R) HB 1851	Author: Springer	
Last Action	03/25/2019 H Left pending in committee	
Caption Version:	Introduced	
Caption:	Relating to the requirement that the State Board of Veterinary Medical Examiners provide a copy of a complaint to the subject of the complaint.	
86(R) HB 1931	Author: Kacal et al.	
Last Action	04/29/2019 H Committee report sent to Calendars	
Caption Version:	House Committee Report	
Caption:	Relating to the liability of volunteer certified veterinary assistants, licensed veterinary technicians, or veterinarians who provide medical assistance to an injured animal in certain situations.	
86(R) HB 2563	Author: Lucio III	
Last Action	03/11/2019 H Referred to Public Health: Mar 11 2019 6:06PM	
Caption Version:	Introduced	
Caption:	Relating to the establishment and duties of the Texas Medical Cannabis Council.	
86(R) HB 2787	Author: Springer et al.	
Last Action	05/06/2019 S Referred to Business & Commerce	
Caption Version:	Engrossed	
Caption:	Relating to certain confidential or privileged information related to veterinary care or treatment and to the liability of volunteer certified veterinary assistants, licensed veterinary technicians, or veterinarians who provide medical assistance to an injured animal in certain situations.	
86(R) HB 2891	Author: White	
Last Action	04/25/2019 H Committee report sent to Calendars	
Caption Version:	House Committee Report	
Caption:	Relating to recovery of attorney's fees in certain civil cases.	
86(R) HB 3181	Author: Bailes	
Last Action	03/25/2019 H Left pending in committee	
Caption Version:	Introduced	
Caption:	Relating to the use of certain drugs in breeding stock by or on the prescription of a veterinarian.	
86(R) HB 3284	Author: Sheffield et al.	Sponsor: Nelson et al.
Last Action	06/14/2019 E Effective on 9/1/19	
Caption Version:	Enrolled	
Caption:	Relating to the prescribing and dispensing of controlled substances under the Texas Controlled Substances Act; authorizing a fee; providing for administrative penalties; creating criminal offenses.	
86(R) HB 3806	Author: Springer	
Last Action	04/01/2019 H Left pending in committee	
Caption Version:	Introduced	
Caption:	Relating to veterinary services provided by releasing agencies.	

Self-Evaluation Report

86(R) SB 814	Author: Seliger	Sponsor: Buckley
Last Action	05/21/2019 H Placed on General State Calendar	
Caption Version:	House Committee Report	
Caption:	Relating to the regulation of equine dentistry.	
86(R) SB 1144	Author: Watson	
Last Action	03/07/2019 S Referred to Business & Commerce	
Caption Version:	Introduced	
Caption:	Relating to the disciplinary authority of the State Board of Veterinary Medical Examiners.	
86(R) SB 1589	Author: Creighton	
Last Action	03/14/2019 S Referred to State Affairs	
Caption Version:	Introduced	
Caption:	Relating to the recovery of attorney's fees in cases involving veterinary malpractice or negligence.	
86(R) SB 1596	Author: Hall	
Last Action	03/14/2019 S Referred to Health & Human Services	
Caption Version:	Introduced	
Caption:	Relating to the use of certain drugs in breeding stock by or on the prescription of a veterinarian.	
86(R) SB 1750	Author: Seliger	
Last Action	03/14/2019 S Referred to Business & Commerce	
Caption Version:	Introduced	
Caption:	Relating to certain confidential or privileged information related to veterinary care or treatment.	

Table 17 Exhibit 15 Legislation Not Passed 86th Leg

IX. Major Issues

Several Major Issues were addressed in the last Sunset Review. The agency has additional or new items to include in this limited sunset review.

A. Brief Description of Issue

B. Discussion

Background. Include enough information to give context for the issue. Information helpful in building context includes:

- What specific problems or concerns are involved in this issue?
- Who does this issue affect?
- What is the agency's role related to the issue?
- Any previous legislative action related to the issue?

C. Possible Solutions and Impact

Provide potential recommendations to solve the problem. Feel free to add a more detailed discussion of each proposed solution, including:

- How will the proposed solution fix the problem or issue?
- How will the proposed change impact any entities or interest groups?
- How will your agency's performance be impacted by the proposed change?
- What are the benefits of the recommended change?
- What are the possible drawbacks of the recommended change?
- What is the fiscal impact of the proposed change?

Complete this section for **each** issue. Copy and paste components A through C as many times as needed to discuss each issue. **See Major Issue Example.**

X. Other Contacts

- A. Fill in the following charts with updated information on people with an interest in your agency and be sure to include the most recent email address.

(Agency Name)
Exhibit 16: Contacts

Interest Groups

(groups affected by agency actions or that represent others served by or affected by agency actions)

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Veterinary Medical Association/Chris Copeland	8104 Exchange Dr. Austin, TX 78754	512-452-4224	ccopeland@tvma.org
Texas Association of Registered Veterinary Technicians /Sue Allen, LVT	2317 N. 44 th St. Waco, TX 76710	254-399-0389	sarvt1981@yahoo.com sueallen@tarvt.org
IAED/Josh Wallace	P.O. Box 498 Whitesboro, TX 76273	(405) 313-8570	wallacejosh@hotmail.com
Equine Dental Providers of America/Carl Mitz	4836 Gaskamp Rd Washington, TX 77880	979-836-1015	mitzequine@aol.com
Texas Vet Board Watch/Greg Munson	2202 Norma Dr. Mesquite, TX 75149	972-284-9654	munson@stempy.net
Vet Abuse Network/Julie Catalano	PO Box 6136 San Antonio, TX 78209	210-216-4102	info@vetabusenetwork.com
Texas Farm Bureau /Vernie Glasson, Executive Director	P.O. Box 2689 Waco, Texas 76702	254-772-3030	vglasson@txfb.org
Texas and Southwestern Cattle Raisers Association /Matt Brockman	1301 W. Seventh St. Fort Worth, Texas 76102	817/332-7064 Ext. 101	mbrockman@texascattleraisers.org

Table 18 Exhibit 16 Interest Groups

Interagency, State, or National Associations

(that serve as an information clearinghouse or regularly interact with your agency)

Group or Association Name/ Contact Person	Address	Telephone	Email Address
American Association of Veterinary State Boards/ Dr. John Lawrence	380 West 22nd Street, Ste. 101 Kansas City, MO 64108	(816) 931-1504	president@aavsb.org
Texas Veterinary Medical Association/Chris Copeland	8104 Exchange Dr. Austin, TX 78754	512-452-4224	ccopeland@tvma.org
National Board of Veterinary Medical Examiners/ Heather Case, D.V.M.	P.O. Box 1356 Bismarck, ND 58502	701-224-0332	case@nbvme.org
SPCA of Texas/ James Bias, CAWA	2400 Lone Star Dr. Dallas, TX 75212	214-742-7722	spca@spca.org

Table 19 Exhibit 16 Interagency, State, and National Association

Liaisons at Other State Agencies

(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Legislative Budget Board, Assigned Analyst/Ellen Stein	Robert E. Johnson Bldg., 5th Floor 1501 N. Congress Austin, TX 78701	(512) 463-5610	Ellen.Stein@lbb.state.tx.us
Office of the Attorney General/Agency Assigned Attorney/Andrew Lutostanski	Administrative Law Division P.O. Box 12548 Austin, TX 78711-2548	(512) 475-4200	andrew.lutostanski@texasattorneygeneral.gov
Office of the Attorney General/Agency Assigned Attorney/Ted Ross	Administrative Law Division P.O. Box 12548 Austin, TX 78711-2548	(512) 475-4191	ted.ross@texasattorneygeneral.gov
Office of the Governor/Governor Liaison/Julie Frank	1100 San Jacinto Austin, TX 78701	(512) 475-3547	Julie.Frank@gov.texas.gov

Self-Evaluation Report

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Texas Animal Health Commission/Gene Snelson	2105 Kramer Austin TX 78758	(512) 719-0722	gsnelson@tahc.state.tx.us
Texas Department of State Health Services/Karen Tannert	PO Box 149347 Austin, TX 78714-9347	(512) 834-6755 x2350	karen.tannert@dshs.state.tx.us
Texas Department of State Health Services/Dr. Tom Sidwa	Infectious Disease Control Unit Mail Code: 1960 PO BOX 149347 Austin, TX 78714-9347	(512) 458-7111 x6628	Tom.Sidwa@dshs.state.tx.us
Texas Racing Commission/Mark Fenner	8505 Cross Park, #110 Austin, TX 78754	(512) 490-4009	mark.fenner@txrc.state.tx.us
Drug Enforcement Administration (DEA)/ Agent Latisha Neris			Leticia.Neris@usdoj.gov
Texas Pharmacy Board/ BJ Slack			bj.slack@pharmacy.texas.gov

Table 20 Exhibit 16 Liaisons at Other State Agencies

XI. Additional Information

- A. Texas Government Code, Section 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment. See *Exhibit 17 Example*.**

This is not applicable as our Board is not required to complete any agency-specific reports that are not part of general reporting requirements applicable to all agencies.

Texas State Board of Veterinary Medical Examiners Exhibit 17: Evaluation of Agency Reporting Requirements

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
(text)	(text)	(text)	(text)	(text)	(text)
(text)	(text)	(text)	(text)	(text)	(text)

Table 21 Exhibit 17 Agency Reporting Requirements

Note: If more than one page of space is needed, please provide this chart as an attachment, and feel free to convert it to landscape orientation or transfer it to an Excel file.

- B. Does the agency’s statute use "person-first respectful language" as required by Texas Government Code, Section 325.0123? Please explain and include any statutory provisions that prohibit these changes.**

The Board’s statutes and rules comply with the statutory requirements for the use of “first person respectful language.”

- C. Please describe how your agency receives and investigates complaints made against the agency.**

Complaints against the agency are received and investigated by the Executive Director or Presiding Officer.

Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate.

Texas State Board of Veterinary Medical Examiners
Exhibit 18: Complaints Against the Agency — Fiscal Years 2017 and 2018

	Fiscal Year 2017	Fiscal Year 2018
Number of complaints received	0	0
Number of complaints resolved	0	0
Number of complaints dropped / found to be without merit	0	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	0	0

Table 22 Exhibit 18 Complaints Against the Agency

D. Fill in the following charts detailing your agency’s Historically Underutilized Business (HUB) purchases. See Exhibit 19 Example. Sunset is required by law to review and report this information to the Legislature.

Exhibit 19: Purchases from HUBs

Fiscal Year 2016

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	0	0	n/a	11.2	11.2%
Building Construction	0	0	n/a	21.1	21.1%
Special Trade	0	0	n/a	32.9	32.9%
Professional Services	738.5	738.5	100%	23.7	23.7%
Other Services	66172.11	5749	9%	26.0	26.0%
Commodities	17,606.53	7,147.84	41%	21.9	21.1%
TOTAL	84517.14	13635.34	16%		

Table 23 Exhibit 19 HUB Purchases for FY 2016

Fiscal Year 2017

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	0	0	n/a	11.2	11.2%
Building Construction	0	0	n/a	21.1	21.1%
Special Trade	0	0	n/a	32.9	32.9%
Professional Services	5007.5	5007.5	100%	23.7	23.7%
Other Services	64907.58	6872.31	11%	26.0	26.0%
Commodities	38,299.76	10,638.75	28%	21.9	21.1%
TOTAL	108214.84	22518.56	21%		

Table 24 Exhibit 19 HUB Purchases for FY 2017

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	0	0	n/a	11.2	11.2%
Building Construction	0	0	n/a	21.1	21.1%
Special Trade	0	0	n/a	32.9	32.9%
Professional Services	6088.50	6088.50	100%	23.7	23.7%
Other Services	140,771.88	76,891.75	55%	26.0	26.0%
Commodities	63,185.75	19,647.16	31%	21.9	21.1%
TOTAL	210,046.13	102,627.41	48%		

Table 25 Exhibit 19 HUB Purchases for FY 2018

E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Section 2161.003; TAC Title 34, Part 1, Rule 20.286c)

The agency does have a HUB Policy and is monitored by the purchaser for performance.

F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Section 2161.252; TAC Title 34, Part 1, Rule 20.285)

The Agency doesn't have contract valued at \$100,000 or more.

G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Section 2161.062; TAC Title 34, Part 1, Rule 20.296)

The Agency doesn't have appropriations exceeding \$10 million.

2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Section 2161.066; TAC Title 34, Part 1, Rule 20.297)

The agency doesn't have a specific program.

3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Section 2161.065; TAC Title 34, Part 1, Rule 20.298)

4. The agency doesn't have a specific program.

H. Fill in the charts below detailing your agency's Equal Employment Opportunity (EEO) statistics. See *Exhibit 20 Example*. Sunset is required by law to review and report this information to the Legislature. Please use only the categories provided below. For example, some agencies use the classification "paraprofessionals," which is not tracked by the state civilian workforce. Please reclassify all employees within the appropriate categories below.

See Attached EEO Report.

I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

The Agency does have an equal opportunity policy and has not identified any shortfalls.

XII. Agency Comments

After the last sunset review, the board fell below a quorum and was not able to fully function. The Executive Staff resigned leaving the agency with about 13 of its 22 authorized FTEs, a few supervisors and limited staff to operate the agency. The newly appointed Executive Officers of the board became highly involved in daily operations to keep the agency operational through the end of the last Fiscal Year.

In November of 2017, a new Executive Director was hired and tasked with rebuilding the agency to comply with the sunset recommendations. Since the last review the team has worked to establish an executive leadership team and make procedural changes to the operations of the agency and the rules under which we operate. It has been reported from staff members that previous administrations did not adhere to basic leadership principals and micro managed the employees. By empowering the staff to take ownership of their work product and empowering them to make decisions we have created a new environment at the office that has been beneficial to the employees. Through employee recruiting efforts most of the agency's staff positions are filled. The current staff believes in the agency and is making a team effort to meet and exceed the expectation of the Sunset Commission and the Texas Legislature.